



DAE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#11

In re application of:

GERALD R. KOEFELDA et al.

Group Art Unit: 3727

Examiner: J. Moy

Serial No.: 10/019,519

Filed: March 22, 2002

For: LOW-DEPTH NESTABLE TRAY FOR FLUID CONTAINERS

Attorney Docket No.: RPC 0462 PUSA

**PETITION TO REVIVE
ERRONEOUSLY ABANDONED APPLICATION**

Mail Stop Petition
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
NOV 08 2004
OFFICE OF PETITIONS

Sir:

The undersigned hereby petitions to revive the above-identified application which received a Notice of Abandonment dated September 29, 2004 (copy attached). The Notice of Abandonment indicated the application as being abandoned as a result of Applicant's failure to respond to the Restriction Requirement mailed on October 3, 2003 (copy attached).

It is believed that the Notice of Abandonment was issued in error. Applicant did, in fact, timely respond to the Restriction Requirement within the one month period provided. On November 3, 2003, a Response to Restriction Requirement (copy attached) was mailed to the Patent Office with an appropriate Certificate of Mailing signed by the

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on:

November 2, 2004
Date of Deposit

Stephanie M. Mansfield
Name of Person Signing

Stephanie M. Mansfield
Signature

undersigned. The undersigned received a return, date-stamped postcard (copy attached) indicating that the Response was received by the U.S. Patent and Trademark Office mailroom on November 7, 2003.

It appears that through an inadvertent error, the Response never was matched to the file resulting in the issuance of a Notice of Abandonment. It is hereby requested that the application be returned to active pending status and the case promptly forwarded to the Examiner for consideration.

As the error resulting in the Notice of Abandonment was a result of the actions of the Patent and Trademark Office, no fee is believed to be necessary for this Petition. In the event, however, that the Patent Office determines that a fee is necessary, the Patent Office is authorized to charge Deposit Account No. 02-3978.

If the Patent Office has any questions regarding this communication, please do not hesitate to telephone the undersigned.

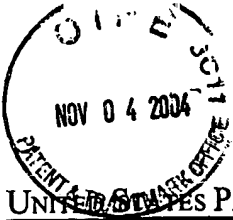
Respectfully submitted,

GERALD R. KOEFELDA et al.

By: Stephanie M. Mansfield
Stephanie M. Mansfield
Registration No. 43,773
Attorney/Agent for Applicant

Date: November 2, 2004

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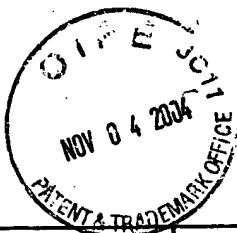
UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,519	03/22/2002	Gerald R Koefeldt	RPC0462PUSA	8686
7590 09/29/2004				
Konstantine J Diamond 4010 East 26th Street Los Angeles, CA 90023				
HENRIK PACIFIC COMPANY SEP 29 2004				
EXAMINER MOY, JOSEPH MAN				
ART UNIT 3727		PAPER NUMBER		
DATE MAILED: 09/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

NOTICE OF ABANDONMENT

RECEIVED

NOV 0 8 2004

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper response to the Office letter mailed on 10/13/03
- ☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of _____ month(s)) which expired on _____.

- ☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.

(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC).)

- ☒ No response has been received.
- ☐ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.

- ☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.

- ☐ The submitted issue fee of \$ _____ is insufficient. The issue fee required by 37 CFR 1.18 is \$ _____.

- ☐ The issue fee has not been received.

- ☐ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability.

- ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.

- ☐ The proposed new formal drawings filed _____ are not acceptable.

- ☐ No proposed new formal drawings have been received.

- ☐ The express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.

- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a) upon the filing of a continuing application.

- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

- ☐ The reason(s) below:

Joseph Mah-Fu Moy
Primary Examiner



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,519	10/03/2003	Gerald R Koefeldt	RPC0462PUSA	8686

7590
Konstantine J Diamond
4010 East 26th Street
Los Angeles, CA 90023

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PACIFIC COMPANY
NOV 7 2003

EXAMINER

MOY, JOSEPH MAN

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 10/03/2003

Date: 11-3-03 (2)

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/019517

Applicant(s)

KOCFELDA *HP*

Examiner

Joseph Moy

Art Unit

-3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-4 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Serial Number: 10/019519

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-7, drawn to a tray with specific first area with single wall construction, classified in class 220, subclass 660.
- II. Claims 8-27, drawn to a tray with specific double wall construction with alternating first area, classified in class 220, subclass 643.
- III. Claims 28-40, drawn to a tray with specific sidewall column, classified in class 220, subclass 637.
- IV. Claims 41-47, drawn to a tray with specific cut out portion, classified in class 220, subclass 676.
- V. Claim 48, drawn to a tray with inward extending protrusion, classified in class 220, subclass 651

The inventions are distinct, each from the other because:

Each grouped invention is separate, independent and unrelated inventions and does not rely upon the other grouped subcombination for patentability. For example: the evidence claims are claims 1,8,28,41 and 48. For instant, group I does not rely the double wall of claim 8, the sidewall column of claim 28, the cut out portion of claim 41 and the protrusion of claim 48 for patentability.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

This application contains claims directed to the following patentably distinct species of the claimed invention: (1) Figures 1-10;

(2) Figures 11-20;

(3) Figures 21-30;

(4) Figures 31-40;

(5) Figures 41-50;

(6) Figures 51-60.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this office action will be directed to examiner Joseph Moy, (703) 308-1145. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging faxing of responses in Office Actions directly into the group a (703)305-3579 or (703)305-3580. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a USPTO deposit account. Please identify the examiner and the art unit at the top of your cover sheet.

Date: 09/29/03

Joseph Man-Fu Moy
Primary Examiner